

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

|                                 |   |                             |
|---------------------------------|---|-----------------------------|
| NELSON LORA-PENA                | : |                             |
|                                 | : |                             |
| Plaintiff,                      | : |                             |
|                                 | : | Civil Action No. 06-442-SLR |
| v.                              | : |                             |
|                                 | : |                             |
| FEDERAL BUREAU OF               | : |                             |
| INVESTIGATION, UNITED STATES    | : |                             |
| MARSHAL SERVICE, DEPUTY U.S.    | : |                             |
| MARSHAL ROBERT DENNEY,          | : |                             |
| DEPUTY U.S. MARSHAL JACK LEO,   | : |                             |
| DEPUTY U.S. MARSHAL WILLIAM     | : |                             |
| DAVID, SUP. DEP. U.S. MARSHAL   | : |                             |
| THOMAS DAVIS, FUGITIVE          | : |                             |
| APPREHENSION TASK FORCE,        | : |                             |
| TASK FORCE OFFICER FLETCHER,    | : |                             |
| TASK FORCE OFFICER DAILY, TASK  | : |                             |
| FORCE OFFICER BOWERS, and STATE | : |                             |
| POLICE TROOPER HAHN             | : |                             |
|                                 | : |                             |
| Defendants.                     | : |                             |

**MOTION TO DISMISS**

Defendants, through their undersigned counsel, respectfully move, pursuant to Fed. R. Civ. P. 12(b)(1) & (6), to dismiss Plaintiff's Complaint. In support of this motion, the Court is respectfully referred to the accompanying brief. A proposed Order consistent with this motion is attached hereto.

DATED: January 12, 2007.

Respectfully Submitted,

COLM F. CONNOLLY  
United States Attorney

By: /s/ Seth M. Beausang  
Seth M. Beausang (I.D. No. 4071)  
Assistant United States Attorney  
The Nemours Building  
1007 Orange Street, Suit 700  
Wilmington, DE 19801  
(302) 573-6277

**CERTIFICATE OF SERVICE**

I, Seth M. Beausang, hereby attest under penalty of perjury that on this 12th day of January, 2007, I caused two copies of the Defendants' Motion to Dismiss, Opening Brief in Support Thereof and Proposed Order to be served on the Plaintiff by First Class Mail at the following address:

Nelson Lora-Pena  
I.D. No. 03883-070  
U.S.P. Canaan  
P.O. Box 300  
Waymart, PA 18742

and a copy to be served on the following counsel at the following address:

Stephani J. Ballard  
Delaware Department of Justice  
820 North French Street  
Wilmington, DE 19801

/s/ Seth M. Beausang  
Seth M. Beausang (DE I.D. No. 4071)

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

|                                 |   |                             |
|---------------------------------|---|-----------------------------|
| NELSON LORA-PENA                | : |                             |
|                                 | : |                             |
| Plaintiff,                      | : |                             |
|                                 | : | Civil Action No. 06-442-SLR |
| v.                              | : |                             |
|                                 | : |                             |
| FEDERAL BUREAU OF               | : |                             |
| INVESTIGATION, UNITED STATES    | : |                             |
| MARSHAL SERVICE, DEPUTY U.S.    | : |                             |
| MARSHAL ROBERT DENNEY,          | : |                             |
| DEPUTY U.S. MARSHAL JACK LEO,   | : |                             |
| DEPUTY U.S. MARSHAL WILLIAM     | : |                             |
| DAVID, SUP. DEP. U.S. MARSHAL   | : |                             |
| THOMAS DAVIS, FUGITIVE          | : |                             |
| APPREHENSION TASK FORCE,        | : |                             |
| TASK FORCE OFFICER FLETCHER,    | : |                             |
| TASK FORCE OFFICER DAILY, TASK  | : |                             |
| FORCE OFFICER BOWERS, and STATE | : |                             |
| POLICE TROOPER HAHN             | : |                             |
|                                 | : |                             |
| Defendants.                     | : |                             |

**ORDER**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2007, upon consideration of Defendants' Motion to Dismiss, and all papers filed in support thereof and opposition thereto, it is ORDERED that Plaintiff's Complaint is dismissed.

IT IS SO ORDERED

---

UNITED STATES DISTRICT JUDGE